



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

IN THE MATTER OF:

**ReEnergy Fort Fairfield LLC  
Aroostook County  
Fort Fairfield, Maine  
A-181-75-J-X**

**Departmental  
Findings of Fact and Order  
Sales and Use Tax and Property Tax  
Exemption Certification**

After review of the tax exemption certification application and supporting documents, pursuant to Maine's Sales and Use Tax Law, 36 M.R.S.A. § 1760(30), and Property Tax Law, §§ 655(1)(N) and 656(1)(E)(2), and the Department of Environmental Protection's (Department) *Rules for the Processing of Applications*, 06-096 CMR 2, the Department has considered the application of ReEnergy Fort Fairfield LLC (REFF), with its supportive data, agency review comments, and other related materials on file and finds the following facts:

## **1. APPLICATION SUMMARY**

### **A. History**

ReEnergy Fort Fairfield LLC (REFF) owns and operates an electrical generation facility located in Fort Fairfield, Maine. Operation of this facility requires Department licensing of, among other things, air pollutant emissions.

### **B. Application**

On May 29, 2014, REFF filed an application seeking property and sales and use tax exemption for a Fuel Tech NOxOUT<sup>®</sup> Selective Non-Catalytic Reduction (SNCR) System, associated 10,000 gallon urea storage tank, and reoccurring urea reagent costs. The application was deemed complete for processing by the Department on May 30, 2014.

## **2. OTHER FINDINGS**

### **A. Decision Obligations.**

Pursuant to the Property Tax Law, 36 M.R.S.A. § 656(3), the Department shall issue a determination by April 1<sup>st</sup> regarding certification for any air or water pollution control facility for which it has received a complete application by December 15<sup>th</sup> of the preceding year. Pursuant to the Department's *Rules for the Processing of Applications*, 06-096 CMR 2.14(1) and (2), this Decision shall set forth a findings of fact with sufficient explanation to make interested persons aware of the basis for the determination that the applicant has met the licensing criteria set forth in the appropriate statute or rule; or deny the application and set forth in the findings the explanation for the basis of the disapproval.

In making tax exemption certification decisions, the Department's responsibility is to determine whether an item is eligible for certification pursuant to the laws of the State of Maine. In a case where an exemption certification is approved, Maine Revenue Service has the responsibility of auditing receipts and determining the amount of reduction of sales and use tax liability. Municipal tax assessors perform the same function regarding property tax.

**B. Air Pollutants.**

Nitrogen Oxides (NO<sub>x</sub>) are air pollutants as defined in *Definitions Regulation*, 06-096 CMR 100.

**C. Decision Making Process.**

The decision as to whether a facility is eligible for exemption is made by determining the facility's "primary purpose". That determination is made as follows:

1. If the facility serves no pollution control function, then the primary purpose is not pollution control and the exemption is denied.
2. If the facility serves dual or multiple functions, the "primary" function must be determined.
3. If the facility's only function or its primary function is pollution control, then the primary purpose of the facility is pollution control and exemption must be granted.
4. If pollution control is merely a secondary function, then other factors, including taxpayer motivation, must be considered.
5. If the primary motivation for installation of the facility is pollution control, then the Department may conclude that the primary purpose is pollution control and exemption may be granted.
6. If neither the primary function nor the primary motivation is determined to be pollution control, then the primary purpose cannot be pollution control and the exemption is denied.

**D. Functions.**

The Fuel Tech NO<sub>x</sub>OUT<sup>®</sup> SNCR System is a post combustion control NO<sub>x</sub> reduction technology that distributes and injects a reagent (urea) into the combustion gases. The reagent reacts with NO<sub>x</sub> molecules formed during the combustion process. As a result, NO<sub>x</sub> molecules are reduced to nitrogen (N<sub>2</sub>), carbon dioxide (CO<sub>2</sub>), and water.

The major components of the Fuel Tech NOxOUT SNCR System include:

1. Urea Reagent Storage Tank – Used to safely store reagent and to provide adequate reagent capacity.
2. Wall Mounted Injectors – Designed to inject mixed urea atomized with air into the combustion gas path where the urea solution reacts with NO<sub>x</sub>.
3. Distribution Module – Designed to channel urea solution to each injector.
4. Metering Module – Designed to supply mixed urea to each distribution module. The Metering Module includes metering pumps and control valves.
5. Dilution Water Pressure Control Module – Designed to supply filter process water to the metering module for reagent dilution.
6. Circulation Module – Designed to supply reagent to metering module. In addition the Circulation Module filters the reagent, supplies supplemental heating to make-up line to avoid reagent crystallization, and maintains continuous circulation of stored reagent.

The Department has determined that the Fuel Tech NOxOUT SNCR System has only one function, to reduce emissions of NO<sub>x</sub>. Therefore, pollution reduction was found to be the primary function of the Fuel Tech NOxOUT SNCR System.

All associated chemicals, piping, electrical, concrete, insulation, and structural installations necessary for the construction and operation of the Fuel Tech NOxOUT SNCR System are also considered part of this facility.

The Fuel Tech NOxOUT SNCR system is not a facility "such as an air conditioner, dust collector, fan or similar facility designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of such person" (or company) and it was not designed or installed for the reduction or control of automobile exhaust emissions.

#### **E. Motivation for installation.**

Since the primary function of the Fuel Tech NOxOUT SNCR System is pollution control, it is not necessary to evaluate the motivation for installation of this equipment.

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Based on the Findings of Fact in this Order, the Department makes the following CONCLUSIONS:

1. The Department hereby finds that the equipment listed Section 1.B above is an air pollution facility qualifying for an exemption from property tax pursuant to 36 M.R.S.A., Section 656 (1)(E)(2).
2. The Department hereby finds that the equipment listed in Section 1.B above is an air pollution facility qualifying for an exemption from sales and use tax pursuant to 36 M.R.S.A., Section 1760 (30).

THEREFORE, the Department APPROVES the equipment as explained above as described in the application of REFF.

DONE AND DATED IN AUGUSTA, MAINE, THIS 20 DAY OF June, 2014.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Maureen Robert Cone for  
PATRICIA W. AHO, COMMISSIONER

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: 5/29/14

Date of application acceptance: 5/30/14

Date filed with the Board of Environmental Protection:

This Order prepared by Lynn Poland, Bureau of Air Quality.

